

CLINICAL ETHICS

Principlism and moral dilemmas: a new principle

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Moral conflicts occur in theories that involve more than one principle. I examine basic ways of dealing with moral dilemmas in medical ethics and in ethics generally, and propose a different approach based on a principle I call the “mutuality principle”. It is offered as an addition to Tom Beauchamp and James Childress’ principlism. The principle calls for the mutual enhancement of basic moral values. After explaining the principle and its strengths, I test it by way of an examination of three responses—in the recent *Festschrift* for Dr Raanon Gillon—to a case involving parental refusal of a blood transfusion. The strongest response is the one that comes closest to the requirements of the mutuality principle but yet falls short. I argue that the mutuality principle provides an explicit future orientation in principlism and gives it greater moral coherence.

Principlism, much as other multi-principled theories, is applied to situations in which two or more obligations hold and only one can be satisfied. Such moral dilemmas have been handled in two basic ways.

- Only one prima facie obligation entails a genuine obligation.
- All obligations are genuine and so a “moral residue” remains, requiring moral regret or perhaps involving some derived obligation, such as compensation.

In bioethics neither approach is fully acceptable. I present and defend a third path, which provides more effective guidance in dealing with difficult cases; I show this in relation to a case involving a conflict between Jehovah’s Witnesses’ parental medical decision making and the lifesaving need to administer blood products to their child. This example also helps to show a future oriented perspective often missing in clinical ethics and, in particular, in principlism. To handle moral conflict more effectively, I argue in favour of the addition to principlism of a new principle, which I call the “mutuality principle”.¹ Basically, this principle requires the implementation of ways to avoid moral conflict, and it requires the mutual enhancement of moral value as articulated in basic principles and norms.

STANDARD APPROACHES TO A MORAL DILEMMA

Principles provide basic statements about desirable values. In principlism, autonomy,

beneficence, the avoidance of harm, and justice are featured because they involve nearly universally accepted values.² In application, principles may conflict and so one or more may be violated. When this occurs, value is lost. This is the case regardless of the actual obligation in a particular situation. As we shall see, the mutuality principle deals with such loss of value.

Let us consider a simple example that should help to present the mutuality principle. Tom Beauchamp and James F Childress offer this dilemma³: A physician made a promise to take her son to the library but faces an emergency medical situation that also requires her attention. She deliberates by considering which obligation is more pressing, whether she could take her son to the library some other time and whether someone else could handle the medical needs of the case.

Under plausible circumstances, the decision to stay late is easy to justify as the physician’s moral obligation, overriding her promise to her son. Under one view, when norms conflict only one creates a genuine obligation. Supposing this is so, it remains the case that the action, justified as it is, might be personally regrettable, but it is not morally regrettable because no actual moral obligation is violated. Although value is lost, no actual moral violation occurs because one prima facie obligation is defeated.

On the moral residue view of moral conflict, the decision about which action to do still leaves moral regret because some genuine obligation was not fulfilled; in addition, compensation might be morally required—perhaps taking the son the next day or buying him a present. In this way the current situation might be effectively handled. A life might be saved, and the boy eventually goes to the library and/or gets a gift. This is fortunate, because, after initial disappointment, compensation to the boy may more or less help to satisfy everyone involved. Nevertheless, for some moral dilemmas there may be no plausible way to make compensation; even when there is adequate compensation, value is often lost, in this case, at least the moral value of keeping a promise.⁴

Under both these standard views of moral conflict, the issue is resolved. The proper obligation is followed and perhaps compensation is made. For many doing ethics, this would be the end of the issue. It should not be. Similar situations are likely to occur in the future: promises about going to the son’s soccer game or to the circus. Each promise faces a similar likelihood of leading to a moral dilemma. The physician, of course, would do well to try to avoid such conflicts in the future.

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The example involves a moral dilemma partly because a promise was made. Typically, we think of promises as creating moral obligations. A promise should not have been made to the child when the physician knew that her life is regularly not under her control.⁵ Instead, she should say that if she does not face an emergency or the like, she would do something with the son. But even this is not adequate. She should also devise alternative schemes to deal with such problems—for example, by making arrangements with the son's caregiver to take him if she cannot. If she does such things, she probably would not face a similar moral dilemma in the future. Future oriented actions would be part of her moral responsibility under the mutuality principle.

A further dimension in the example involves institutional responsibility. Conflict might be minimised by appropriate measures involving alternative care for the patient. Making arrangements may not be feasible in this situation, but similar alternatives may be appropriate in other cases of conflict between caregiver responsibilities and perceived moral obligations, such as a nurse who refuses to follow a doctor's instructions, say to administer pain medication that might hasten death, due to his or her moral beliefs. The mutuality principle, formally presented in the following section, often directs people to provide ways to avoid conflict. Healthcare professionals, such as unit directors, may not themselves face conflicting obligations, but they may be under obligation to provide alternatives for those who do. This further distinguishes the application of the mutuality principle from other suggested ways of handling moral conflict, such as the moral residue approach, which binds only those directly affected.

THE MUTUALITY PRINCIPLE

Philosophers have disputed whether one can have two actual conflicting obligations, x and y , such that it is not possible to do both x and y .⁶ The locus of the dispute is the widely accepted moral axiom that *ought* implies *can*. If this is the case, then it is not possible to have two conflicting obligations where only one can be satisfied. At least one is not a genuine obligation. Since it does seem that people face conflicting obligations, two solutions have been proposed. One is to deny that *ought* implies *can*.⁷ Under certain circumstances this seems plausible. If I promise to do A and not A, then I ought to do A and do not A, because my promises induced a set of binding obligations even though I cannot fulfil both.⁸ The other solution is to claim that the conflicting obligations are *prima facie* obligations and not actual obligations. While actual obligations—obligations all things considered—do not conflict, *prima facie* obligations may.

Whether *prima facie* obligations or actual obligations conflict, the requirements of the mutuality principle are appropriate. This is because under either scenario the point of principles and norms, the values behind them, is subverted when not all apparent moral obligations can be satisfied. Value is lost. The mutuality principle is about the avoidance of such loss of value and the enhancement of value attainment.

I am proposing that probable or actual moral conflict, where at least one norm will be violated, involves a new moral obligation, beyond regret or compensation. This new obligation, to be added to Beauchamp and Childress' principlism, ensures, where feasible, that such conflict does not arise in the future. This is a general obligation. It holds whenever there is a conflict or the likelihood of conflict. The obligation readily follows from this principle⁹:

Mutuality Principle: Act to establish the mutual enhancement of all basic moral values.

Mutual enhancement of values

The mutuality principle involves the avoidance of conflict among norms but goes further by calling for action to enhance basic values. When basic moral principles lead to conflicting obligations, the moral system involves a species of incoherence, much as would be the case when basic laws in a scientific theory conflict. The mutuality principle is thus partly designed to add coherence to a system of moral values. Furthermore, if chances are missed to enhance the values supported by principles, a system is not optimally effective and value is lost or not attained. *Mutual* enhancement means, at the minimum, that the enhancement of one value should not be at the cost of another. In full, it calls for the systematic enhancement of all values.

Although this paper is about the role of the mutuality principle in principlism, an example from another theory is helpful in explaining its application. In John Rawls' theory,¹⁰ justice requires equality unless inequality maximally benefits the least well off. Rawls calls this the "difference principle". He provides only one example of an application of the difference principle. In the example, he assumes that people in the entrepreneurial class in a capitalistic system will have better life prospects than those in the class of unskilled labour. He asks whether this could be justified. He answers¹¹: "According to the difference principle, it is justifiable only if the difference in expectation is to the advantage of the representative man who is worse off, in this case the representative unskilled worker. The inequality in expectation is permissible only if lowering it would make the working class even more worse off ... Their better prospects act as incentives so that the economic process is more efficient, innovation proceeds at a faster pace, and so on ..."

Social and psychological circumstances might not allow the least well off to do better. In effect, background constraints support social inequalities. Given the emphasis on equality in Rawls' system, value is lost. However, given the value he places on the welfare of the least well off, equality should not come at a cost to them. This makes good sense in the short run. Nevertheless, the mutuality principle would call for the long run elimination of the constraints, involving the welfare of the least well off, on the realisation of equality, perhaps through taxation and investment policies. Supposing acceptance of Rawls' system, the mutuality principle would call for long run equality with, at the minimum, no loss to the least well off.

This example shows the need for interpretation of the mutuality principle. It is not clear what can be done to change background circumstances, or who should do it. Indeed, it might not be possible to eliminate all social inequalities, even in the long run. If this is the case, the mutuality principle points direction to the need to eliminate conflict between economic welfare and equality, at least for those who accept Rawls' theory. In the long run, the movement ought to be in that direction. If it cannot be achieved in the foreseeable future, the principle requires those who support Rawls' view to note the injustice of the circumstances so that when the opportunity to move in that direction arises, appropriate action will be morally required.

The mutuality principle binds in a *prima facie* way. People have personal and social responsibilities that might not permit them to act upon it. In this way, practically speaking, it may sometimes simply be equivalent to regretting a situation. But often, as in the promising example, there are ways to eliminate moral conflict. This indicates that where feasible and appropriate, concrete actions, beyond simple regret, are required by the principle. Also, those in responsible positions, politicians for example, may be better situated to move towards the elimination of conflict, as in the entrepreneurial example. The principle puts greater

responsibility on those who have greater power to change circumstances that limit the mutual attainment of value.

Eliminating moral conflicts

Problems about meeting the demands of the mutuality principle lead to a further consideration. Moral conflicts may arise for two different reasons. One is that the moral system itself contains inherently conflicting principles no matter what the empirical conditions. The other involves conflicts that occur due to the application of a system in contingent circumstances. I believe that there are no inherent conflicts in principlism. All conflicts arise from empirical conditions that in principle may be amended. However, I recognise that there is no way to know whether all such changes are actually achievable. If not achievable, then I would consider them to be inherent in the system. However, even if there are inherent conflicts in principlism, these need not deny the *prima facie* standing of the principles and rules. The mutuality principle is also a *prima facie* principle, and so it maintains a strong role even if, against my belief, the system contains inherent conflicts involving principles or rules that could not be mutually satisfied even in the long run.

Often the circumstances that constrain the mutual satisfaction and enhancement of principles are social or institutional. In these cases, the obligation is greatest on those who can most influence institutions and governmental policies. But in terms of activities that are relatively costless, such as voting in organisations or politically, obligations based on the mutuality principle may be high. In this way, the mutuality principle gives an explicit social or institutional dimension that is often lacking in clinical ethics.

A Jonsen *et al*, in *Clinical Ethics*, observe that many of the problems discussed in their text¹² are the result of background conditions, such as unjust institutional policies and programmes. However, in their text they only deal with situations that occur given those conditions. They recognise reform is a proper good for future actions even though clinicians must make decisions given current imperfect realities.

The need to act in the present is apparent. However, sometimes the actions required by the mutuality principle are not far from the source of the actual conflict. For example, at times moral conflict arises because an ethics consultation was not requested early enough. Education of the staff may provide an answer. With explicit inclusion of the mutuality principle in a bioethics system, such action might be morally obligatory.

In requiring interpretation, the mutuality principle is similar to the other principles in principlism. The principle is action directing in a way that is similar to the other four principles. It is at a highly abstract level, like the other principles, and so it does not serve as a more concrete moral rule. It is in some sense about the other four principles, and so it is not derivable from them. It does support the other principles, and so it gives the system a desirable coherence bond that is missing without it.

Unlike the other principles, with the possible exception of the beneficence principle, the mutuality principle has as its main import a future oriented perspective. It does come into play whenever there is a current moral conflict, and might require long run action to eliminate the conditions that created the conflict. However, the principle may be used to spot potential conflicts, and then to develop plans to avoid them. In this way it involves a kind of watchdog perspective, perhaps leading to, for example, institutional reform.

The principle involves the enhancement of value. It calls for the development of circumstances that allow for less harm, greater autonomy and justice, and more good, independent of actual conflict. Just as the principle of

beneficence, its demands may never be fully satisfied, and so it partly functions as a moral ideal. Due to this ideal dimension it functions, as ideals should, to give direction. Required actions are likely to fall short of the full ideal. For example, social equality may function as an ideal and as such may require the elimination of specific inequalities, such as racial or gender inequalities, even though this falls short of full social equality.

TESTING THE MUTUALITY PRINCIPLE

The test of the mutuality principle in bioethics comes by way of case analyses. The recent *Festschrift* in honor of Dr Raanon Gillon provides a helpful example involving parents who are Jehovah's Witnesses.¹³ They refuse what appears to be a life saving blood transfusion for their two year old child. The physician intends to proceed with the transfusion unless prohibited by a judge's order. With the mutuality principle in mind, three views on this case will be reviewed.

Specifying the principle of autonomy

Tom Beauchamp responds to the example by indicating that there is an apparent conflict between risking death when a condition is medically manageable and disrespecting parents' refusal of treatment. The norm against disrespecting parents' refusal, following from his autonomy principle, is vague and so Beauchamp specifies it¹⁴:

It is morally prohibited to disrespect a parental refusal of treatment, unless the refusal constitutes child abuse, child neglect, or violates a right of the child.¹⁴

With specification, the apparent moral conflict is dissolved. The principle of autonomy supports a specification indicating that parental autonomy, in this case, has not been violated. He says, "My view is that it is morally required—not merely morally permitted—to overrule this parental refusal of treatment, because the refusal does constitute a form of child abuse, child endangerment, child neglect, or inattention to the right of the child."¹⁵ In this case, there seems to be no moral residue. By rejecting parental refusal, all obligations are satisfied. Even regret is not required. Despite Beauchamp and Childress' claim that moral regret plays a role in principlism,¹⁶ it has no apparent play in Beauchamp's response.¹⁷

Beauchamp resolves the issue by taking the parents' refusal of treatment, which appears to be morally proper based on the principle of autonomy, and converting it into something that is morally improper. Parental decision making devolves into child abuse or the like, making it an easy decision. In this way his specification takes the place of balancing norms, with an undesirable consequence. The value placed on parental decision making is hidden and negated. Instead, one should follow the rule articulated in the specification. Under the circumstances it makes good sense to say that the parents' refusal should not be upheld, but this does not make their desire to avoid blood transfusions immoral. The problem in this situation comes from conflict based on very unfortunate circumstances, that there are no fully adequate alternatives to blood products.

The mutuality principle militates against the denial of values. In this case, value is lost with the transfusion, regardless of one's view of the Jehovah's Witness religious objection to blood transfusions. Overriding parental refusal is the sort of loss of value that calls the mutuality principle into play, first of all, by rejecting the notion that the lost value is "morally improper".

Although I disagree with Beauchamp's response, I believe it is consistent with principlism as it now stands, that is, without the mutuality principle. Principlism is a complex

system that includes rules, decision procedures, role morality, moral ideals, and coherence as a basic method. In all of this there may be reason to reject his conclusion and also to claim that the mutuality principle is implicit in principlism. However, it is difficult for me to see how the mutuality principle could be inferred from their system. Their interpretations of the principles themselves and rules that are supported by the principles give no indication that they should be mutually optimised. For example, the autonomy principle is, as far as I can tell, designed to protect minimally autonomous decisions. The need for education and the like to improve the decision making capacity of patients is not a part of the principle. It must be reinterpreted to include such a forward-looking dimension. The beneficence principle is forward looking in a way that the other principles are not. However, the beneficence principle does not involve a direct obligation to optimise goodness and instead gives that a lower priority as a non-binding ideal.¹⁸ Beneficence may conflict with the other principles. In that case we are back to the problem of moral conflict. In principlism there is no requirement that the conflicting *prima facie* value that “loses” deserves much more than regret or compensation and, with specification, often not even that. The justice principle is presented with little concrete guidance offered. The mutuality principle would insist that justice play a stronger role in principlism requiring the enhancement of key values in justice, for example non-discrimination, equality, and appropriate benefits and burdens.

The specification approach

The coherence method, which Beauchamp and Childress support, would seem to require that conflicts be eliminated. Yet they claim “available work using the method of coherence lacks the power to eliminate various conflicts among principles and rules”.¹⁹ Although coherence supports the mutuality principle, coherence may be achieved by defeating some values in favour of others. This is of the case with specification, the technique used by Beauchamp in his response to the Jehovah’s Witnesses dilemma. His response is directly in line with the approach to specification recommended by Beauchamp and Childress as a way to deal with, and perhaps to dissolve, moral conflict.²⁰ Their version of specification is adopted from Henry S Richardson, who explicitly confronts the issue of changing the world to avoid moral conflicts. He approves of that in certain circumstances, but also thinks it would be unadvisable in other circumstances.

According to Richardson²¹: (a) a specification can be defended using the claim that it enhances the “mutual support” of an acceptable set of norms; (b) however, it is futile to seek the resolution of all conflicts.

The first part of Richardson’s statement sounds like a common sense appeal to the mutuality principle, but as he goes on, it is clear that it does not function as a *prima facie* obligation. Also, care must be taken in interpreting Richardson’s position. There are two basic forms of specification, those that stand beside the specified principle, in effect maintaining the specified principle, and those that replace the specified principle. Thus, when a principle is replaced, conflict may be resolved and a kind of coherence achieved by denying one part of what at first appeared to be two *prima facie* morally binding principles or rules. This brings coherence to the system by denying a previously held value. Beauchamp in effect did this in his response to the Jehovah’s Witness case. When specification amends principles to avoid conflict, it is inconsistent with the intent of the mutuality principle. Thus, for the mutuality principle to play a strong role in principlism, specification must not be used to replace principles, rules, or other values.

In another piece in the *Festschrift* series, P Gardner does not directly deal with the Jehovah’s Witnesses case but does reject the attitude that one value should win out over another without regret²²:

In much of ethical literature there is a drive to find the correct solution, to try to decide which principles should take precedence or which consequences are preferable. After considerable debate, a course of action is chosen and is deemed to be the right thing to do. The moral agent need worry no more; they have done the right thing.

It is likely, however, that whatever actually happens, there will be regret for those involved; regret for what might have been, for the situation arising in the first place or for the undesirable effects of the action on those involved.

Regret should be displayed through expressions of pain, by sensitivity and concern. Gardner goes on to say that even though consequentialists and deontologists personally experience regret, their theories would be enhanced by explicitly expressing it.²³ Gardner, unlike Beauchamp, would claim that regret, sensitivity, and concern are in order when the parents’ refusal is rejected. This approach comes closer to the mutuality principle, but still falls very far short.

Regret comes even closer to the mutuality principle when it motivates a person to act in a way that reduces conflict in the future. However, regret might not function in this way, and might simply induce a feeling that wrong was done, or lead to commendable kindness, respect, or even compensation. Also, it might have no behaviour implications. The mutuality principle is not a simple extension of moral regret, even when regret happens to motivate behaviour that induces needed changes. In fact, the mutuality principle itself requires neither regret nor compensation. Regret is a motivating state of mind that could help to achieve the requirements of the principle, but those requirements may also be achieved by, for example, the desire to do the right thing, by sympathy, by role conditioning, say through the restructuring of practices, or by the demands of current practices. The mutuality principle is a rival of the regret approach to moral conflict because regret itself does not instruct a person to change circumstances in a way that makes moral conflict less likely. In terms of the mutuality principle, regret alone is most appropriate, but still not essential, when there is no way in the short run to change circumstances, or when doing so conflicts with other obligations. In those circumstances, regret may remind one that there was an unfulfilled responsibility signalling the need for change, so that when circumstances allow, change is more likely to occur. Compensation may or may not be required when some obligations cannot be fulfilled, say when a promise is broken; this is not based on the mutuality principle, but on other moral considerations.

A way to accommodate all values

In analysing the Jehovah’s Witnesses conflict, A Sommerville²⁴ comes yet closer to what would be endorsed by the mutuality principle. Sommerville discusses a 1993 British court ruling in a case similar to the one under discussion.²⁵ The court viewed the parents respectfully as “extremely anxious that their daughter received the best possible medical care”. Although the parents feared the hazards of blood products, they mainly objected on religious grounds. The court decided that the welfare of the child is paramount. As Sommerville mentions,²⁶ the court points out that the parents “wish not only to be involved as far as possible in the care of their daughter but also to be able to

draw attention to treatments alternative to the use of blood products and this is a field in which medical science is advancing rapidly and more such treatments are quickly becoming available."²⁵ Somerville concludes: "doctors must try to accommodate the wishes of parents where it is feasible to do so without damaging the child."²⁶ Doctors have an obligation to investigate alternatives, given adequate time.

This approach seems to me to be clearly superior to the others. It is respectful of the parents and their wishes, even giving them a positive role to play in the care of their child. It does not suggest that the parents are abusive or the like, and it does not simply recommend regret. Instead, it tries to find a way to accommodate all the values involved, and seeks the optimisation of parental involvement. Importantly, in pointing to the rapid development of alternatives to blood transfusions, it brings to mind the future oriented appeal of the mutuality principle. The mutuality principle would support the development of such alternatives. If this happens, the opening comment in the court judgment would not apply: "This is a sad case and one which, tragically, is not uncommon."²⁵

Developing alternatives that short-circuit the dilemma is morally desirable. Doing so would enhance value and bring greater coherence to the application of principlism. Of course, in this case doing so might require expensive research, maybe with the aid of government funds. No particular person might have the responsibility to foster this. The future oriented requirements of the mutuality principle are often not easily satisfied. Nevertheless, in a prima facie way the principle calls for such development, and it might demand that particular people have the responsibility to ensure that research is carried out. It might require that Jehovah's Witnesses to do more to support alternatives to blood products. It might also require that professional organisations, such as the American Medical Association, put its support behind such research. This is difficult to determine without knowing more—for example about how research money is acquired and spent, how much is already being done, likely results, etc. If not feasible now, the principle remains open to future circumstances that would allow such development.

CONCLUSION

Despite Beauchamp's response to the Jehovah's Witness case, in the *Principles of Biomedical Ethics* there is a description of conditions on balancing or weighing prima facie obligations that involve some of the concerns of the mutuality principle. For example, condition 4 is that "the infringement must be the least possible infringement". And condition 5 states that "The agent must seek to minimize any negative effects of the infringement."²⁷ These conditions, while including some of

the concerns of the mutuality principle, clearly fall short of its future orientation. For example, the mutuality principle is operative even when there are no actual cases at hand. A probable conflict of principles is enough to call upon it. Even when there is no conflict, the mutual enhancement of value may be required. Because Beauchamp and Childress' conditions are stated in terms of a current case, they do not recommend ways to eliminate conflict in the future. The mutuality principle calls for future action that eliminates the basis of the conflict, where feasible. An amplification of principlism to include the mutuality principle provides a better approach to moral dilemmas in health care, makes it more coherent, and gives it a fuller future orientation.

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